

IN THE SENATE

SENATE BILL NO. 1122

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO GRANDPARENT VISITATION; REPEALING SECTION 32-719, IDAHO CODE, RELATING TO GRANDPARENT VISITATION RIGHTS; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-719, IDAHO CODE, TO PROVIDE FOR PETITIONS FOR VISITATION WITH GRANDCHILDREN BY GRANDPARENTS AND GREAT-GRANDPARENTS, TO PROVIDE THAT THE COURT SHALL NOT GRANT VISITATION OVER THE OBJECTION OF A FIT PARENT UNLESS THE PETITIONER SHOWS SPECIFIED FACTORS BY CLEAR AND CONVINCING EVIDENCE, TO PROVIDE FOR THE CONSIDERATION OF ALL RELEVANT FACTORS IN DETERMINING THE BEST INTERESTS OF THE CHILD, TO PROVIDE FOR THE CONSIDERATION OF CERTAIN FACTORS, TO PROVIDE FOR APPLICABILITY AND TO PROVIDE FOR THOSE CASES WHERE THE CHILD IS THE SUBJECT OF A PENDING CHILD PROTECTION CASE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section [32-719](#), Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 7, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-719, Idaho Code, and to read as follows:

32-719. VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPARENTS. (1) A grandparent or great-grandparent may petition the district court for reasonable visitation rights with respect to his or her grandchild or great-grandchild under the provisions of this section if:

(a) The marital relationship between the parents of the child has been severed by death, divorce or legal separation;

(b) The child's parents were not married when the child was born and have not subsequently married and the petitioner is a maternal grandparent or maternal great-grandparent of the child;

(c) The child's parents were not married when the grandchild was born and have not subsequently married:

(i) The petitioner is a paternal grandparent or paternal great-grandparent of the child;

(ii) Paternity has been established by a court of competent jurisdiction or by acknowledgment of paternity pursuant to section 7-1106, Idaho Code; and

(iii) The recision period specified in section 7-1106, Idaho Code, has expired; or

(d) A court in another state has ordered visitation to the petitioner.

(2) The court shall not grant the petitioner reasonable rights of visitation over the objection of a fit parent, unless the petitioner shows the following by clear and convincing evidence:

1 (a) There is a pre-existing relationship between the petitioner and the  
2 child such that it would be in the best interests of the child to con-  
3 tinue the relationship;

4 (b) The petitioner is a fit and proper person to have visitation with  
5 the child;

6 (c) Visitation by the petitioner with the child has been denied or un-  
7 reasonably limited.

8 (3) In determining the best interests of the child, the court shall con-  
9 sider all relevant factors including, but not limited to, the following:

10 (a) The love, affection and other emotional ties existing between the  
11 petitioner and the child;

12 (b) The length and quality of the prior relationship between the child  
13 and the petitioner the role performed by the petitioner and the existing  
14 emotional ties of the child to the petitioner;

15 (c) The mental and physical health of all parties;

16 (d) The wishes and concerns of the child, if age twelve (12) years or  
17 older;

18 (e) The willingness of the petitioner to encourage a close relationship  
19 between the child and the parent or parents of the child, except as to a  
20 parent found by the court to have abused or neglected the child;

21 (f) Any history of physical or emotional abuse or neglect, or sexual  
22 abuse of any child by the parent, parents or petitioner;

23 (g) The wishes of the parents;

24 (h) Any other factor in the best interests of the child.

25 (4) The provisions of this section shall not apply where there has been  
26 a termination of the rights of the biological parent to whom the petitioner  
27 is related.

28 (5) If the child is the subject of a pending child protection case:

29 (a) No action may be filed under this section;

30 (b) Any visitation order pursuant to this section previously granted  
31 shall be void.